

KEEGAN WERLIN LLP

ATTORNEYS AT LAW
265 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110-3113

(617) 951-1400

TELECOPIERS:
(617) 951-1354
(617) 951-0586

August 29, 2006

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: NSTAR Gas Company, D.T.E. 06-44

Dear Ms. Cottrell:

On behalf of NSTAR Gas Company (the "Company"), I am writing to respond briefly to the Initial Brief of the Attorney General filed with the Department of Telecommunications and Energy (the "Department") in this proceeding on August 22, 2006. The Attorney General's Initial Brief addressed the proposed NEA Agreement with respect to one issue only, *i.e.*, the provision addressing Final Storage Quantity Liquidation in the event of the termination of the NEA Agreement.¹

The Final Storage Quantity Liquidation provision addresses an agreement between NSTAR Gas and NEA by which NSTAR Gas agrees to nominate, purchase and receive 100 percent of gas in storage in exchange for NEA delivering such gas on a firm basis (Exhibit MAG-2(c), at 11 **CONFIDENTIAL**). The Attorney General's brief focuses on a hypothetical situation whereby, at the time of the termination of the NEA Agreement, NSTAR Gas might not have nominated for delivery all of the gas remaining in storage as of the termination date (Attorney General Brief at 2). In that event, the NEA Agreement provides that NEA shall reimburse NSTAR Gas for gas paid for, but not delivered, at a discounted price (Exhibit MAG-2(c), at 11 **CONFIDENTIAL**). The Attorney General contends that, in the event that this hypothetical were to occur, NSTAR Gas customers should not bear the costs of this reimbursement, because the reimbursement would indicate imprudence by NSTAR Gas for not fully nominating all gas in storage at the time of termination (Attorney General Brief at 2).

First, the Department need not address the Attorney General's hypothetical in analyzing whether the NEA Agreement is consistent with the public interest pursuant to G.L. c. 164, § 94A. If and when NSTAR Gas seeks recovery for the cost of gas relating to the NEA Agreement, the Department will determine at that time whether the Company's actions regarding its incurrence of costs relating to the Agreement were prudent. A prudence review must

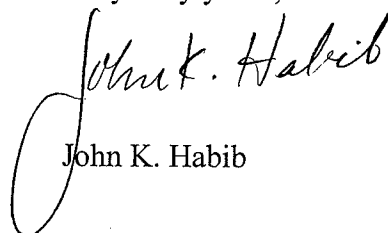
¹ The Attorney General noted that the NEA Agreement allows NEA to assign its DTI and Texas Eastern contracts (the "Upstream Components") to NSTAR Gas, which would result in the termination of the NEA Agreement (Attorney General Initial Brief at 2).

determine whether the utility's actions, based on all that it knew or should have known at the time, were reasonable and prudent in light of the circumstances that then existed. Boston Edison Company, D.T.E. 98 -119/126, at 62. Accordingly, the Department determines the prudence of a decision after it has been made, not in anticipation of an event that may never occur.

Moreover, the Attorney General's conclusion is incorrect that a decision by NSTAR Gas to leave gas in storage is *per se* imprudent. The Final Storage Quantity Liquidation provision addresses incentives for NSTAR Gas to fully nominate gas pursuant to the NEA Agreement. However, supply agreements contain many incentives and disincentives for both parties to comply with the provisions of an agreement. A determination by a party to a supply agreement to take a particular course of action, even though it has a contractual incentive to do otherwise, is not *per se* an imprudent determination. Although Mr. Gowen made it clear on the record in this proceeding that he envisioned that NSTAR Gas would, indeed, fully nominate any gas that it has purchased pursuant to the NEA Agreement (Tr. 1, at 64-67), it is possible that NSTAR Gas could make an economic decision at the time of the termination of the NEA Agreement that it may be less expensive to customers to leave the gas with NEA and to purchase significantly lower cost supplies than to nominate it (e.g., in the event of a precipitous drop in gas prices between the time NSTAR Gas paid for gas and the date of the termination of the NEA Agreement). The Department can make that determination only after the fact, and therefore, the Attorney General's conclusions on this point should be rejected.

The Company appreciates the opportunity to file Reply Comments in this proceeding. The Company reiterates its request that the Department approve the NEA Agreement because it: (1) is consistent with the portfolio objectives established in the Company's Supply Plan, approved by the Department in NSTAR Gas Company, D.T.E. 05-46; (2) compares favorably to the range of alternatives reasonably available to the Company and its customers; and (3) is in the public interest.

Very truly yours,

A handwritten signature in cursive script that reads "John K. Habib". The signature is written in dark ink and is positioned above the printed name.

John K. Habib